

AMENDED IN SENATE AUGUST 21, 2003

AMENDED IN SENATE JULY 9, 2003

AMENDED IN ASSEMBLY MAY 7, 2003

AMENDED IN ASSEMBLY APRIL 22, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1130

Introduced by Assembly Member Diaz

February 21, 2003

An act to ~~amend Section 6254 of~~ *add Section 6254.23* to the Government Code, and to amend Sections 12699.50, 12699.51, 12699.52, 12699.53, 12699.54, 12699.56, 12699.58, 12699.60, 12699.61, and 12699.62 of, to amend the heading of Part 6.4 (commencing with Section 12699.50) of Division 2 of, and to add Section 12699.525 to, the Insurance Code, relating to health care coverage, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1130, as amended, Diaz. Health care coverage: County Health Initiative Matching Fund.

Existing law creates the Children's Health Initiative Matching Fund in the State Treasury, which is administered by the Managed Risk Medical Insurance Board, in collaboration with the State Department of Health Services, for the purpose of providing matching state funds and local funds received by the fund through intergovernmental transfers to a county agency, a local initiative, or a county organized

health system to provide health insurance coverage to certain children in low-income households who do not qualify for health care benefits through the Healthy Families Program or Medi-Cal. Existing law, the California Public Records Act, exempts certain records and information from being disclosed.

This bill would instead create the County Health Initiative Matching Fund in the State Treasury for those purposes. The bill would appropriate, for the 2002–03 fiscal year, a specified sum to the board ~~which~~ *that* would be available for encumbrance for the purposes of these provisions. The bill would authorize the board to enter into contracts and to issue rules and regulations on an emergency basis. The bill would require the Governor to apply for waivers or file state plan amendments in order to obtain federal financial participation for specified projects. The bill would exempt records of the board related to the fund from disclosure *under the California Public Records Act*. The bill would make related changes. ~~The~~

The bill would declare that it is to take effect immediately as an urgency statute.

Vote: ²/₃. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. Section 6254 of the Government Code is~~
- 2 ~~amended to read:~~
- 3 ~~6254. Except as provided in Sections 6254.7 and 6254.13,~~
- 4 ~~nothing in this chapter shall be construed to require disclosure of~~
- 5 ~~records that are any of the following:~~
- 6 ~~(a) Preliminary drafts, notes, or interagency or intra-agency~~
- 7 ~~memoranda that are not retained by the public agency in the~~
- 8 ~~ordinary course of business, provided that the public interest in~~
- 9 ~~withholding those records clearly outweighs the public interest in~~
- 10 ~~disclosure.~~
- 11 ~~(b) Records pertaining to pending litigation to which the public~~
- 12 ~~agency is a party, or to claims made pursuant to Division 3.6~~
- 13 ~~(commencing with Section 810), until the pending litigation or~~
- 14 ~~claim has been finally adjudicated or otherwise settled.~~
- 15 ~~(c) Personnel, medical, or similar files, the disclosure of which~~
- 16 ~~would constitute an unwarranted invasion of personal privacy.~~
- 17 ~~(d) Contained in or related to any of the following:~~



1 ~~(1) Applications filed with any state agency responsible for the~~
2 ~~regulation or supervision of the issuance of securities or of~~
3 ~~financial institutions, including, but not limited to, banks, savings~~
4 ~~and loan associations, industrial loan companies, credit unions,~~
5 ~~and insurance companies.~~

6 ~~(2) Examination, operating, or condition reports prepared by,~~
7 ~~on behalf of, or for the use of, any state agency referred to in~~
8 ~~paragraph (1).~~

9 ~~(3) Preliminary drafts, notes, or interagency or intra-agency~~
10 ~~communications prepared by, on behalf of, or for the use of, any~~
11 ~~state agency referred to in paragraph (1).~~

12 ~~(4) Information received in confidence by any state agency~~
13 ~~referred to in paragraph (1).~~

14 ~~(e) Geological and geophysical data, plant production data, and~~
15 ~~similar information relating to utility systems development, or~~
16 ~~market or crop reports, that are obtained in confidence from any~~
17 ~~person.~~

18 ~~(f) Records of complaints to, or investigations conducted by, or~~
19 ~~records of intelligence information or security procedures of, the~~
20 ~~office of the Attorney General and the Department of Justice, and~~
21 ~~any state or local police agency, or any investigatory or security~~
22 ~~files compiled by any other state or local police agency, or any~~
23 ~~investigatory or security files compiled by any other state or local~~
24 ~~agency for correctional, law enforcement, or licensing purposes,~~
25 ~~except that state and local law enforcement agencies shall disclose~~
26 ~~the names and addresses of persons involved in, or witnesses other~~
27 ~~than confidential informants to, the incident, the description of any~~
28 ~~property involved, the date, time, and location of the incident, all~~
29 ~~diagrams, statements of the parties involved in the incident, the~~
30 ~~statements of all witnesses, other than confidential informants, to~~
31 ~~the victims of an incident, or an authorized representative thereof,~~
32 ~~an insurance carrier against which a claim has been or might be~~
33 ~~made, and any person suffering bodily injury or property damage~~
34 ~~or loss, as the result of the incident caused by arson, burglary, fire,~~
35 ~~explosion, larceny, robbery, carjacking, vandalism, vehicle theft,~~
36 ~~or a crime as defined by subdivision (c) of Section 13960, unless~~
37 ~~the disclosure would endanger the safety of a witness or other~~
38 ~~person involved in the investigation, or unless disclosure would~~
39 ~~endanger the successful completion of the investigation or a~~
40 ~~related investigation. However, nothing in this division shall~~

1 require the disclosure of that portion of those investigative files
2 that reflect the analysis or conclusions of the investigating officer.

3 Notwithstanding any other provision of this subdivision, state
4 and local law enforcement agencies shall make public the
5 following information, except to the extent that disclosure of a
6 particular item of information would endanger the safety of a
7 person involved in an investigation or would endanger the
8 successful completion of the investigation or a related
9 investigation:

10 (1) The full name and occupation of every individual arrested
11 by the agency, the individual's physical description including date
12 of birth, color of eyes and hair, sex, height and weight, the time and
13 date of arrest, the time and date of booking, the location of the
14 arrest, the factual circumstances surrounding the arrest, the
15 amount of bail set, the time and manner of release or the location
16 where the individual is currently being held, and all charges the
17 individual is being held upon, including any outstanding warrants
18 from other jurisdictions and parole or probation holds.

19 (2) Subject to the restrictions imposed by Section 841.5 of the
20 Penal Code, the time, substance, and location of all complaints or
21 requests for assistance received by the agency and the time and
22 nature of the response thereto, including, to the extent the
23 information regarding crimes alleged or committed or any other
24 incident investigated is recorded, the time, date, and location of
25 occurrence, the time and date of the report, the name and age of the
26 victim, the factual circumstances surrounding the crime or
27 incident, and a general description of any injuries, property, or
28 weapons involved. The name of a victim of any crime defined by
29 Section 220, 261, 261.5, 262, 264, 264.1, 273a, 273d, 273.5, 286,
30 288, 288a, 289, 422.6, 422.7, 422.75, or 646.9 of the Penal Code
31 may be withheld at the victim's request, or at the request of the
32 victim's parent or guardian if the victim is a minor. When a person
33 is the victim of more than one crime, information disclosing that
34 the person is a victim of a crime defined by Section 220, 261,
35 261.5, 262, 264, 264.1, 273a, 273d, 286, 288, 288a, 289, 422.6,
36 422.7, 422.75, or 646.9 of the Penal Code may be deleted at the
37 request of the victim, or the victim's parent or guardian if the
38 victim is a minor, in making the report of the crime, or of any crime
39 or incident accompanying the crime, available to the public in
40 compliance with the requirements of this paragraph.

~~(3) Subject to the restrictions of Section 841.5 of the Penal Code and this subdivision, the current address of every individual arrested by the agency and the current address of the victim of a crime, where the requester declares under penalty of perjury that the request is made for a scholarly, journalistic, political, or governmental purpose, or that the request is made for investigation purposes by a licensed private investigator as described in Chapter 11.3 (commencing with Section 7512) of Division 3 of the Business and Professions Code, except that the address of the victim of any crime defined by Section 220, 261, 261.5, 262, 264, 264.1, 273a, 273d, 273.5, 286, 288, 288a, 289, 422.6, 422.7, 422.75, or 646.9 of the Penal Code shall remain confidential. Address information obtained pursuant to this paragraph shall not be used directly or indirectly to sell a product or service to any individual or group of individuals, and the requester shall execute a declaration to that effect under penalty of perjury.~~

~~(g) Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination, except as provided for in Chapter 3 (commencing with Section 99150) of Part 65 of the Education Code.~~

~~(h) The contents of real estate appraisals or engineering or feasibility estimates and evaluations made for or by the state or local agency relative to the acquisition of property, or to prospective public supply and construction contracts, until all of the property has been acquired or all of the contract agreement obtained. However, the law of eminent domain shall not be affected by this provision.~~

~~(i) Information required from any taxpayer in connection with the collection of local taxes that is received in confidence and the disclosure of the information to other persons would result in unfair competitive disadvantage to the person supplying the information.~~

~~(j) Library circulation records kept for the purpose of identifying the borrower of items available in libraries, and library and museum materials made or acquired and presented solely for reference or exhibition purposes. The exemption in this subdivision shall not apply to records of fines imposed on the borrowers.~~

1 ~~(k) Records, the disclosure of which is exempted or prohibited~~
2 ~~pursuant to federal or state law, including, but not limited to,~~
3 ~~provisions of the Evidence Code relating to privilege.~~

4 ~~(l) Correspondence of and to the Governor or employees of the~~
5 ~~Governor's office or in the custody of or maintained by the~~
6 ~~Governor's Legal Affairs Secretary, provided that public records~~
7 ~~shall not be transferred to the custody of the Governor's Legal~~
8 ~~Affairs Secretary to evade the disclosure provisions of this chapter.~~

9 ~~(m) In the custody of or maintained by the Legislative Counsel,~~
10 ~~except those records in the public database maintained by the~~
11 ~~Legislative Counsel that are described in Section 10248.~~

12 ~~(n) Statements of personal worth or personal financial data~~
13 ~~required by a licensing agency and filed by an applicant with the~~
14 ~~licensing agency to establish his or her personal qualification for~~
15 ~~the license, certificate, or permit applied for.~~

16 ~~(o) Financial data contained in applications for financing under~~
17 ~~Division 27 (commencing with Section 44500) of the Health and~~
18 ~~Safety Code, where an authorized officer of the California~~
19 ~~Pollution Control Financing Authority determines that disclosure~~
20 ~~of the financial data would be competitively injurious to the~~
21 ~~applicant and the data is required in order to obtain guarantees~~
22 ~~from the United States Small Business Administration. The~~
23 ~~California Pollution Control Financing Authority shall adopt rules~~
24 ~~for review of individual requests for confidentiality under this~~
25 ~~section and for making available to the public those portions of an~~
26 ~~application that are subject to disclosure under this chapter.~~

27 ~~(p) Records of state agencies related to activities governed by~~
28 ~~Chapter 10.3 (commencing with Section 3512), Chapter 10.5~~
29 ~~(commencing with Section 3525), and Chapter 12 (commencing~~
30 ~~with Section 3560) of Division 4 of Title 1, that reveal a state~~
31 ~~agency's deliberative processes, impressions, evaluations,~~
32 ~~opinions, recommendations, meeting minutes, research, work~~
33 ~~products, theories, or strategy, or that provide instruction, advice,~~
34 ~~or training to employees who do not have full collective bargaining~~
35 ~~and representation rights under these chapters. Nothing in this~~
36 ~~subdivision shall be construed to limit the disclosure duties of a~~
37 ~~state agency with respect to any other records relating to the~~
38 ~~activities governed by the employee relations acts referred to in~~
39 ~~this subdivision.~~

1 ~~(q) Records of state agencies related to activities governed by~~
2 ~~Article 2.6 (commencing with Section 14081), Article 2.8~~
3 ~~(commencing with Section 14087.5), and Article 2.91~~
4 ~~(commencing with Section 14089) of Chapter 7 of Part 3 of~~
5 ~~Division 9 of the Welfare and Institutions Code, that reveal the~~
6 ~~special negotiator's deliberative processes, discussions,~~
7 ~~communications, or any other portion of the negotiations with~~
8 ~~providers of health care services, impressions, opinions,~~
9 ~~recommendations, meeting minutes, research, work product,~~
10 ~~theories, or strategy, or that provide instruction, advice, or training~~
11 ~~to employees.~~

12 ~~Except for the portion of a contract containing the rates of~~
13 ~~payment, contracts for inpatient services entered into pursuant to~~
14 ~~these articles, on or after April 1, 1984, shall be open to inspection~~
15 ~~one year after they are fully executed. In the event that a contract~~
16 ~~for inpatient services that is entered into prior to April 1, 1984, is~~
17 ~~amended on or after April 1, 1984, the amendment, except for any~~
18 ~~portion containing the rates of payment, shall be open to inspection~~
19 ~~one year after it is fully executed. If the California Medical~~
20 ~~Assistance Commission enters into contracts with health care~~
21 ~~providers for other than inpatient hospital services, those contracts~~
22 ~~shall be open to inspection one year after they are fully executed.~~

23 ~~Three years after a contract or amendment is open to inspection~~
24 ~~under this subdivision, the portion of the contract or amendment~~
25 ~~containing the rates of payment shall be open to inspection.~~

26 ~~Notwithstanding any other provision of law, the entire contract~~
27 ~~or amendment shall be open to inspection by the Joint Legislative~~
28 ~~Audit Committee. The committee shall maintain the~~
29 ~~confidentiality of the contracts and amendments until the time a~~
30 ~~contract or amendment is fully open to inspection by the public.~~

31 ~~(r) Records of Native American graves, cemeteries, and sacred~~
32 ~~places maintained by the Native American Heritage Commission.~~

33 ~~(s) A final accreditation report of the Joint Commission on~~
34 ~~Accreditation of Hospitals that has been transmitted to the State~~
35 ~~Department of Health Services pursuant to subdivision (b) of~~
36 ~~Section 1282 of the Health and Safety Code.~~

37 ~~(t) Records of a local hospital district, formed pursuant to~~
38 ~~Division 23 (commencing with Section 32000) of the Health and~~
39 ~~Safety Code, or the records of a municipal hospital, formed~~
40 ~~pursuant to Article 7 (commencing with Section 37600) or Article~~

~~8 (commencing with Section 37650) of Chapter 5 of Division 3 of Title 4 of this code, that relate to any contract with an insurer or nonprofit hospital service plan for inpatient or outpatient services for alternative rates pursuant to Section 10133 or 11512 of the Insurance Code. However, the record shall be open to inspection within one year after the contract is fully executed.~~

~~(u) (1) Information contained in applications for licenses to carry firearms issued pursuant to Section 12050 of the Penal Code by the sheriff of a county or the chief or other head of a municipal police department that indicates when or where the applicant is vulnerable to attack or that concerns the applicant's medical or psychological history or that of members of his or her family.~~

~~(2) The home address and telephone number of peace officers, judges, court commissioners, and magistrates that are set forth in applications for licenses to carry firearms issued pursuant to Section 12050 of the Penal Code by the sheriff of a county or the chief or other head of a municipal police department.~~

~~(3) The home address and telephone number of peace officers, judges, court commissioners, and magistrates that are set forth in licenses to carry firearms issued pursuant to Section 12050 of the Penal Code by the sheriff of a county or the chief or other head of a municipal police department.~~

~~(v) (1) Records of the Major Risk Medical Insurance Program related to activities governed by Part 6.3 (commencing with Section 12695) and Part 6.5 (commencing with Section 12700) of Division 2 of the Insurance Code, and that reveal the deliberative processes, discussions, communications, or any other portion of the negotiations with health plans, or the impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff, or records that provide instructions, advice, or training to employees.~~

~~(2) (A) Except for the portion of a contract that contains the rates of payment, contracts for health coverage entered into pursuant to Part 6.3 (commencing with Section 12695) or Part 6.5 (commencing with Section 12700) of Division 2 of the Insurance Code, on or after July 1, 1991, shall be open to inspection one year after they have been fully executed.~~

~~(B) In the event that a contract for health coverage that is entered into prior to July 1, 1991, is amended on or after July 1, 1991, the amendment, except for any portion containing the rates~~

1 of payment, shall be open to inspection one year after the
2 amendment has been fully executed.

3 (3) Three years after a contract or amendment is open to
4 inspection pursuant to this subdivision, the portion of the contract
5 or amendment containing the rates of payment shall be open to
6 inspection.

7 (4) Notwithstanding any other provision of law, the entire
8 contract or amendments to a contract shall be open to inspection
9 by the Joint Legislative Audit Committee. The committee shall
10 maintain the confidentiality of the contracts and amendments
11 thereto, until the contract or amendments to a contract are open to
12 inspection pursuant to paragraph (3).

13 (w) (1) Records of the Major Risk Medical Insurance Program
14 related to activities governed by Chapter 14 (commencing with
15 Section 10700) of Part 2 of Division 2 of the Insurance Code, and
16 that reveal the deliberative processes, discussions,
17 communications, or any other portion of the negotiations with
18 health plans, or the impressions, opinions, recommendations,
19 meeting minutes, research, work product, theories, or strategy of
20 the board or its staff, or records that provide instructions, advice,
21 or training to employees.

22 (2) Except for the portion of a contract that contains the rates
23 of payment, contracts for health coverage entered into pursuant to
24 Chapter 14 (commencing with Section 10700) of Part 2 of
25 Division 2 of the Insurance Code, on or after January 1, 1993, shall
26 be open to inspection one year after they have been fully executed.

27 (3) Notwithstanding any other provision of law, the entire
28 contract or amendments to a contract shall be open to inspection
29 by the Joint Legislative Audit Committee. The committee shall
30 maintain the confidentiality of the contracts and amendments
31 thereto, until the contract or amendments to a contract are open to
32 inspection pursuant to paragraph (2).

33 (x) Financial data contained in applications for registration, or
34 registration renewal, as a service contractor filed with the Director
35 of the Department of Consumer Affairs pursuant to Chapter 20
36 (commencing with Section 9800) of Division 3 of the Business and
37 Professions Code, for the purpose of establishing the service
38 contractor's net worth, or financial data regarding the funded
39 accounts held in escrow for service contracts held in force in this
40 state by a service contractor.

~~(y) (1) Records of the Managed Risk Medical Insurance Board related to activities governed by Part 6.2 (commencing with Section 12693) or Part 6.4 (commencing with Section 12699.50) of Division 2 of the Insurance Code, and that reveal the deliberative processes, discussions, communications, or any other portion of the negotiations with health plans, or the impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff, or records that provide instructions, advice, or training to employees.~~

~~(2) (A) Except for the portion of a contract that contains the rates of payment, contracts entered into pursuant to Part 6.2 (commencing with Section 12693) or Part 6.4 (commencing with Section 12699.50) of Division 2 of the Insurance Code, on or after January 1, 1998, shall be open to inspection one year after they have been fully executed.~~

~~(B) In the event that a contract entered into pursuant to Part 6.2 (commencing with Section 12693) or Part 6.4 (commencing with Section 12699.50) of Division 2 of the Insurance Code is amended, the amendment shall be open to inspection one year after the amendment has been fully executed.~~

~~(3) Three years after a contract or amendment is open to inspection pursuant to this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.~~

~~(4) Notwithstanding any other provision of law, the entire contract or amendments to a contract shall be open to inspection by the Joint Legislative Audit Committee. The committee shall maintain the confidentiality of the contract and amendments thereto until the contract or amendments to a contract are open to inspection pursuant to paragraph (2) or (3).~~

~~(5) The exemption from disclosure provided pursuant to this subdivision for the contracts, deliberative process, discussions, communications, negotiations with health plans, impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff shall also apply to the contracts, deliberative process, discussions, communications, negotiations with health plans, impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of applicants pursuant to Part 6.4~~

~~(commencing with Section 12699.50) of Division 2 of the Insurance Code.~~

~~(z) Records obtained pursuant to paragraph (2) of subdivision (e) of Section 2891.1 of the Public Utilities Code.~~

~~(aa) A document prepared by a local agency that assesses its vulnerability to terrorist attack or other criminal acts intended to disrupt the public agency's operations and that is for distribution or consideration in a closed session.~~

~~Nothing in this section prevents any agency from opening its records concerning the administration of the agency to public inspection, unless disclosure is otherwise prohibited by law.~~

~~Nothing in this section prevents any health facility from disclosing to a certified bargaining agent relevant financing information pursuant to Section 8 of the National Labor Relations Act.~~

SECTION 1. Section 6254.23 is added to the Government Code, to read:

6254.23. (a) Nothing in this chapter shall require the disclosure of records of the Managed Risk Medical Insurance Board related to activities governed by Part 6.4 (commencing with Section 12699.50) of Division 2 of the Insurance Code, that reveal any of the following:

(1) Deliberative processes, discussions, communications, or any other portion of the negotiations with health plans.

(2) Impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff.

(3) Instructions, advice, or training to employees.

(b) Except for the portion of a contract that contains the rates of payment, a contract entered into pursuant to Part 6.4 (commencing with Section 12699.50) of Division 2 of the Insurance Code, on and after January 1, 2004, shall be open to inspection one year after the contract has been fully executed.

(c) If a contract entered into pursuant to Part 6.4 (commencing with Section 12699.50) of Division 2 of the Insurance Code is amended, the amendment shall be open to inspection one year after the amendment has been fully executed.

SEC. 2. The heading of Part 6.4 (commencing with Section 12699.50) of Division 2 of the Insurance Code is amended to read:

PART 6.4. COUNTY HEALTH INITIATIVE MATCHING
FUND

SEC. 3. Section 12699.50 of the Insurance Code is amended to read:

12699.50. This part shall be known and may be cited as the County Health Initiative Matching Fund.

SEC. 4. Section 12699.51 of the Insurance Code is amended to read:

12699.51. For the purposes of this part, the following definitions shall apply:

(a) “Administrative costs” means those expenses that are described in Section 1397ee(a)(1)(D) of Title 42 of the United States Code.

(b) “Applicant” means a county, county agency, a local initiative, or a county organized health system.

(c) “Board” means the Managed Risk Medical Insurance Board.

(d) “Child” means a person under 19 years of age.

(e) “Comprehensive health insurance coverage” means the coverage described in Section 12693.60.

(f) “County organized health system” means a health system implemented pursuant to Article 2.8 (commencing with Section 14087.5) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code and Article 1 (commencing with Section 101675) of Chapter 3 of Part 4 of Division 101 of the Health and Safety Code.

(g) “Fund” means the County Health Initiative Matching Fund.

(h) “Local initiative” has the same meaning as set forth in Section 12693.08.

SEC. 5. Section 12699.52 of the Insurance Code is amended to read:

12699.52. (a) The County Health Initiative Matching Fund is hereby created within the State Treasury. The fund shall accept intergovernmental transfers as the nonfederal matching fund requirement for federal financial participation through the State Children’s Health Insurance Program (Subchapter 21 (commencing with Section 1397aa) of Chapter 7 of Title 42 of the United States Code).

1 (b) Amounts deposited in the fund shall be used only for the
2 purposes specified by this part.

3 (c) The board shall administer this fund and the provisions of
4 this part in collaboration with the State Department of Health
5 Services for the express purpose of allowing local funds to be used
6 to facilitate increasing the state's ability to utilize federal funds
7 available to California. These federal funds shall be used prior to
8 the expiration of their authority for programs designed to improve
9 and expand access for uninsured persons.

10 (d) The board shall authorize the expenditure of money in the
11 fund to cover program expenses, including cost to the state to
12 administer the program.

13 SEC. 5.5. Section 12699.525 is added to the Insurance Code,
14 to read:

15 12699.525. The sum of eighty-nine million dollars
16 (\$89,000,000) is hereby appropriated in the 2002–03 fiscal year
17 from the fund, and the sum of one hundred sixty-four million
18 dollars (\$164,000,000) is hereby appropriated for the 2002–03
19 fiscal year from the Federal Trust Fund, to the board and shall be
20 available for encumbrance through June 30, 2004, for the purposes
21 of this part.

22 SEC. 6. Section 12699.53 of the Insurance Code is amended
23 to read:

24 12699.53. (a) An applicant that will provide an
25 intergovernmental transfer may submit a proposal to the board for
26 funding for the purpose of providing comprehensive health
27 insurance coverage to any child who meets citizenship and
28 immigration status requirements that are applicable to persons
29 participating in the program established by Title XXI of the Social
30 Security Act whose family income is at or below 300 percent of
31 the federal poverty level in specific geographic areas, as published
32 quarterly in the Federal Register by the Department of Health and
33 Human Services, and who does not qualify for either the Healthy
34 Families Program (Part 6.2 (commencing with Section 12693) or
35 Medi-Cal with no share of cost pursuant to the Medi-Cal Act
36 (Chapter 7 (commencing with Section 14000) of Part 3 of Division
37 9 of the Welfare and Institutions Code).

38 (b) The proposal shall guarantee at least one year of
39 intergovernmental transfer funding by the applicant at a level that
40 ensures compliance with the requirements of an approved federal

1 waiver and shall, on an annual basis, either commit to fully funding
2 the necessary intergovernmental amount to meet the conditions of
3 the waiver or withdraw from the program. The board may identify
4 specific geographical areas that, in comparison to the national
5 level, have a higher cost of living or housing or a greater need for
6 additional health services, using data obtained from the most
7 recent federal census, the federal Consumer Expenditure Survey,
8 or from other sources. The proposal may include an administrative
9 mechanism for outreach and eligibility.

10 (c) The applicant may include in its proposal reimbursement of
11 medical, dental, vision, or mental health services delivered to
12 children who are eligible under the State Children's Health
13 Insurance Program (Subchapter 21 (commencing with Section
14 1397aa) of Chapter 7 of Title 42 of the United States Code), if these
15 services are part of an overall program with the measurable goal
16 of enrolling served children in the Healthy Families Program.

17 (d) If a child is determined to be eligible for benefits for the
18 treatment of an eligible medical condition under the California
19 Children's Services Program pursuant to Article 5 (commencing
20 with Section 123800) of Chapter 3 of Part 2 of Division 106 of the
21 Health and Safety Code, the health, dental, or vision plan
22 providing services to the child pursuant to this part shall not be
23 responsible for the provision of, or payment for, those authorized
24 services for that child. The proposal from an applicant shall
25 contain provisions to ensure that a child whom the health, dental,
26 or vision plan reasonably believes would be eligible for services
27 under the California Children's Services Program is referred to
28 that program. The California Children's Services Program shall
29 provide case management and authorization of services if the child
30 is found to be eligible for the California Children's Services
31 Program. Diagnosis and treatment services that are authorized by
32 the California Children's Services Program shall be performed by
33 paneled providers for that program and approved special care
34 centers of that program and approved by the California Children's
35 Services Program. All other services provided under the proposal
36 from the applicant shall be made available pursuant to this part to
37 a child who is eligible for services under the California Children's
38 Services Program.

39 SEC. 7. Section 12699.54 of the Insurance Code is amended
40 to read:

1 12699.54. (a) The board, in consultation with the State
2 Department of Health Services, the Healthy Families Advisory
3 Committee, and other appropriate parties, shall establish the
4 criteria for evaluating an applicant's proposal, which shall include,
5 but not be limited to, the following:

6 (1) The extent to which the program described in the proposal
7 provides comprehensive coverage including health, dental, and
8 vision benefits.

9 (2) Whether the proposal includes a promotional component to
10 notify the public of its provision of health insurance to eligible
11 children.

12 (3) The simplicity of the proposal's procedures for applying to
13 participate and for determining eligibility for participation in its
14 program.

15 (4) The extent to which the proposal provides for coordination
16 and conformity with benefits provided through Medi-Cal and the
17 Healthy Families Program.

18 (5) The extent to which the proposal provides for coordination
19 and conformity with existing Healthy Families Program
20 administrative entities in order to prevent administrative
21 duplication and fragmentation.

22 (6) The ability of the health care providers designated in the
23 proposal to serve the eligible population and the extent to which
24 the proposal includes traditional and safety net providers, as
25 defined in regulations adopted pursuant to the Healthy Families
26 Program.

27 (7) The extent to which the proposal intends to work with the
28 school districts and county offices of education.

29 (8) The total amount of funds available to the applicant to
30 implement the program described in its proposal, and the
31 percentage of this amount proposed for administrative costs as
32 well as the cost to the state to administer the proposal.

33 (9) The extent to which the proposal seeks to minimize the
34 substitution of private employer health insurance coverage for
35 health benefits provided through a governmental source.

36 (10) The extent to which local resources may be available after
37 the depletion of federal funds to continue any current program
38 expansions for persons covered under local health care financing
39 programs or for expanded benefits.

1 (b) The board may, in its discretion, approve or disapprove
2 projects for funding pursuant to this part on an annual basis.

3 (c) To the extent that an applicant's proposal pursuant to this
4 part provides for health plan or administrative services under a
5 contract entered into by the board or at rates negotiated for the
6 applicant by the board, a contract entered into by the board or by
7 an applicant shall be exempt from any provision of law relating to
8 competitive bidding, and shall be exempt from the review or
9 approval of any division of the Department of General Services to
10 the same extent as contracts entered into pursuant to Part 6.2
11 (commencing with Section 12693). The board and the applicant
12 shall not be required to specify the amounts encumbered for each
13 contract, but may allocate funds to each contract based on the
14 projected or actual subscriber enrollments to a total amount not to
15 exceed the amount appropriated for the project including family
16 contributions.

17 SEC. 8. Section 12699.56 of the Insurance Code is amended
18 to read:

19 12699.56. (a) Upon its approval of a proposal, the board, in
20 collaboration with the State Department of Health Services, may
21 provide the applicant reimbursement in an amount equal to the
22 amount that the applicant will contribute to implement the
23 program described in its proposal, plus the appropriate and
24 allowable amount of federal funds under the State Children's
25 Health Insurance Program (Subchapter 21 (commencing with
26 Section 1397aa) of Chapter 7 of Title 42 of the United States
27 Code). Not more than 10 percent of the County Health Initiative
28 Matching Fund and matching federal funds shall be expended in
29 any one fiscal year for administrative costs, including the costs to
30 the state to administer the proposal, unless the board permits the
31 expenditure consistent with the availability of federal matching
32 funds not needed for the purposes described in paragraph (3) of
33 subdivision (a) of Section 12699.62. The board, in collaboration
34 with the State Department of Health Services, may audit the
35 expenses incurred by the applicant in implementing its program to
36 ensure that the expenditures comply with the provisions of this
37 part. No reimbursement may be made to an applicant that fails to
38 meet its financial participation obligation under this part. The
39 state's reasonable startup costs and ongoing costs for

1 administering the program shall be reimbursed by those entities
2 applying for funding.

3 (b) Each applicant that is provided funds under this part shall
4 submit to the board a plan to limit initial and continuing enrollment
5 in its program in the event the amount of moneys for its program
6 is insufficient to maintain health insurance coverage for those
7 participating in the program.

8 SEC. 9. Section 12699.58 of the Insurance Code is amended
9 to read:

10 12699.58. (a) The board, in collaboration with the State
11 Department of Health Services, shall administer the provisions of
12 this part and may do all of the following:

13 (1) Administer the expenditure of moneys from the fund.

14 (2) Issue rules and regulations as necessary.

15 (3) Enter into contracts.

16 (4) Sue and be sued.

17 (5) Employ necessary staff.

18 (6) Exercise all powers reasonably necessary to carry out the
19 powers and responsibilities expressly granted or imposed by this
20 part.

21 (b) The adoption and readoption of regulations pursuant to this
22 section shall be deemed to be an emergency and necessary for the
23 immediate preservation of public peace, health, and safety, or
24 general welfare and shall be exempt from review by the Office of
25 Administrative Law. Any emergency regulations authorized by
26 this section shall be submitted to the Office of Administrative Law
27 for filing with the Secretary of State and publication in the
28 California Code of Regulations and shall remain in effect for not
29 more than 180 days. The regulation shall become effective
30 immediately upon filing with the Secretary of State.

31 SEC. 10. Section 12699.60 of the Insurance Code is amended
32 to read:

33 12699.60. Nothing in this part creates a right or an entitlement
34 to the provision of health insurance coverage or health care
35 benefits. No costs shall accrue to the state for the provision of these
36 services. The state shall not be liable beyond the assets of the fund
37 for any obligation incurred or liabilities sustained by applicants in
38 the operation of the fund or of the projects authorized by this part.

39 SEC. 11. Section 12699.61 of the Insurance Code is amended
40 to read:

12699.61. To the extent necessary to obtain federal financial participation for projects approved pursuant to this part, the Governor, in collaboration with the Managed Risk Medical Insurance Board and the State Department of Health Services, shall apply for one or more waivers or shall file state plan amendments pursuant to the State Children's Health Insurance Program (Subchapter 21 (commencing with Section 1397aa) of Chapter 7 of Title 42 of the United States Code) in coordination with the Managed Risk Medical Insurance Board and the State Department of Health Services to allow a county agency, local initiative, or county organized health system to apply for matching funds through the federal State Children's Health Insurance Program (Subchapter 21 (commencing with Section 1397aa) of Chapter 7 of Title 42 of the United States Code) using local funds for the state matching funds.

SEC. 12. Section 12699.62 of the Insurance Code is amended to read:

12699.62. (a) The provisions of this part shall be implemented only if all of the following conditions are met:

(1) Federal financial participation is available for this purpose.

(2) Federal financial participation is approved.

(3) The Managed Risk Medical Insurance Board determines that State Children's Health Insurance Program (Subchapter 21 (commencing with Section 1397aa) of Chapter 7 of Title 42 of the United States Code) funds remain available after providing funds for all current enrollees and eligible children and parents that are likely to enroll in the Healthy Families Program and, to the extent funded through the State Children's Health Insurance Program, the Access for Infants and Mothers Program and Medi-Cal program, as determined by a Department of Finance estimate.

(4) Funds are appropriated specifically for this purpose.

(b) The State Department of Health Services and the Managed Risk Medical Insurance Board may accept funding necessary for the preparation of the federal waiver applications or state plan amendments described in Section 12699.61 from a not-for-profit group or foundation.

SEC. 13. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

1 Under federal law, one hundred sixty-four million dollars
2 (\$164,000,000) of the state's federal allotment under Title XXI of
3 the federal Social Security Act will revert to the federal Treasury
4 if it is not spent pursuant to Part 6.4 (commencing with Section
5 12699.50) of Division 2 of the Insurance Code in the 2002–03
6 fiscal year. Therefore, in order to expend this federal allotment to
7 protect the public health, it is necessary that this act take effect
8 immediately.

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